

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Lynchburg (Charlottesville) Division**

In re:

SUE MIFKA STOTTS,

Debtor.

Case No. 16-61788

Chapter 13

DONALD G. STOTTS,

Plaintiff,

v.

SUE MIFKA STOTTS, et al.

Defendants.

Adversary Proceeding No. 17-06005

CHARLES KABBASH,

Plaintiff,

v.

SUE MIFKA STOTTS, et al.

Defendants.

Case has been consolidated with:

Adversary Proceeding No. 17-06002

JOINT STIPULATION OF FACTS

The parties to these consolidated adversary proceedings, by and through counsel, stipulate to the following facts for the purposes of the hearing currently scheduled for April 12, 2017, and for all future proceedings in these adversary proceedings. The parties have agreed to

rely upon this Joint Stipulation in lieu of presenting witnesses regarding the facts stipulated herein. The parties also stipulate to the authenticity of the documents identified herein while reserving their right to make such other objection (i.e., relevance) as they deem proper when admission is sought.

1. Sue Mifka Stotts, the Debtor, filed a Chapter 13 bankruptcy petition in this Court on September 7, 2016, thereby commencing the underlying proceeding.

2. The Debtor and Donald Stotts purchased a parcel of real estate located in Louisa County, Virginia, known as 14043 Jefferson Highway, Bumpass, Virginia (the “Property”), on January 2, 1991, while they were married, and they acquired the Property as tenants by the entirety.

3. On December 12, 1996, the Debtor and Donald Stotts were divorced. As a result of the divorce, their tenancy in the Property was converted into a tenancy in common.

4. The following judgments against the Debtor were docketed in the Louisa County Circuit Court on the following dates: (1) Credit Recovery/Eastern Assignment on September 23, 1997; and (2) Kabbash on April 16, 1998.

5. Pursuant to a contract of purchase and sale dated March 2, 2009 (the “Contract”), Donald Stotts agreed to convey his interest in the Property to Debtor.

6. A portion of the purchase price under the Contract was represented by a promissory note from the Debtor in the amount of \$104,000.00 (the “Promissory Note”).

7. The Debtor subsequently defaulted on the Promissory Note, and Donald Stotts brought suit in the Louisa County Circuit Court against the Debtor.

8. On April 8, 2015, the Louisa County Circuit Court entered judgment (the “Judgment”) in favor of Donald Stotts and against the Debtor in the amount of \$59,209.81 with interest thereon at the rate of 6% per year from March 25, 2015.

9. Thereafter Donald Stotts brought suit in the Louisa County Circuit Court to partition the Property.

10. The Debtor filed a plea in bar in the case contending that under the doctrine of equitable conversion Donald was no longer a coparcener of the Property and could not, as a result, pursue partition.

11. The state court entered an order on August 3, 2016 sustaining the plea.

12. As of the date of the Petition the balance due on the Judgment was \$64,693.83.

13. As of the date of the Petition the balance due on the Kabbash judgment was \$15,468.20.

14. The parties stipulate to the authenticity of the following documents:

- a. Contract of Purchase and Sale dated March 2, 2009
- b. Promissory Note dated March 2, 2009
- c. Judgment of the Louisa County Circuit Court in Case No. CL14-206, entered April 8, 2015
- d. Complaint filed by Donald Stotts in Louisa County Circuit Court in Case No. CL15-291
- e. Plea in Equity filed by Debtor in Louisa County Circuit Court in Case No. CL15-291
- f. Final Order of the Louisa County Circuit Court in Case No. CL15-291, entered August 3, 2016
- g. Abstract of Kabbash judgment docketed on April 16, 1998 in Louisa County Circuit Court (JLB 17, Page 341)

Respectfully submitted,

DONALD G. STOTTS,

by counsel.

s/Neal L. Walters
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CERTIFICATE OF SERVICE

I hereby certify that on March 29, 2017, a copy of the foregoing JOINT STIPULATION OF FACTS was served by the Court's ECF system on the Debtor and all parties and entities who have filed notices of appearance or otherwise requested to receive notice in the above-captioned case.

s/Neal L. Walters

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